

REMARKS

Claims 75-83, 85-114, and 145-164 were pending in this application. Claims 75, 78, 91, 103, 105, 108, 153 and 156 were amended. Therefore, claims 75-83, 85-114, and 145-164 are pending in this application

Section 112 Rejections

The Examiner rejected the pending independent claims under 35 U.S.C. § 112. Although Applicant disagrees with these rejections (and is prepared to argue the patentability of the previous version of these claims on appeal if necessary), Applicant wishes to advance prosecution. Accordingly, Applicant has amended the independent claims in a manner that is believed to obviate the pending rejections under § 112.

Applicant has also made minor amendments to dependent claims 78, 91, 103, 108, and 156 in order to resolve minor issues including those relating to antecedent basis.

Applicant respectfully requests entry of these amendments, as they are believed to either (1) reduce issues for appeal or (2) require only a cursory review (in the case of the amended dependent claims).

Section 102 Rejections

The Examiner rejected the pending independent claims under 35 U.S.C. § 102(b) based on the previously cited Codignotto reference, U.S. Patent No. 7,032,030. Applicant traverses these rejections. With regard to claim 75, the Examiner's citations to Codignotto appear to refer to **both** Fig. 6 and Fig. 12 and the accompanying text. *See* Office Action at 3 (citing Fig. 6 and Fig. 12 as allegedly teaching various portions of claim 75). Applicant submits that the Examiner is misreading the teachings of Codignotto.

Codignotto teaches a “message publishing system.” *See, e.g.*, Codignotto (title). Codignotto teaches that the “MPS can receive messages of various types, such as a facsimile, audio, or email messages.” *See id.* at col. 17, lines 39-40. Accordingly, “the MPS typically needs to determine the type of message that is being received so that it can publish the message accordingly.” *See id.* at col. 17, lines 40-43. Codignotto then states (significantly) that “[t]hese publishing methods

will be discussed in further detail with reference to FIG. 8, FIG. 6, and FIG. 12, respectively,” referring to facsimile messages (FIG. 8), audio messages (FIG. 6), and email messages (FIG. 12). *See id.* at col. 17, lines 59-61. Accordingly, Codignotto describes the publishing of audio messages (FIG. 6) and the publishing of email messages (FIG. 12) as distinct embodiments—one or the other of these embodiments may be used to publish a message depending on “the type of message that is being received.” The Examiner’s conflation of Figs. 6 and 12 on page 3 of the Office Action thus misreads the teachings of Codignotto.

Fig. 6 is discussed at column 21, line 42 to column 22, line 30 of Codignotto. Applicant states that neither this passage nor Fig. 6 itself include any teaching whatsoever regarding an “image file” as recited in claim 75. Indeed, the Examiner appears to implicitly acknowledge this shortcoming by attempting to use Fig. 12 to satisfy this limitation. *See* Office Action at 3. In doing so, the Examiner appears to be impermissibly pointing to various snippets of the reference in an attempt to satisfy the various limitations of claim 75. As shown above, Fig. 6 and Fig. 12 are alternative embodiments—the former for publishing an audio message, the latter for publishing an email message. *See id.* at col. 17, lines 59-61. Thus, Applicant respectfully submits that Codignotto’s Fig. 6 does not teach or suggest at least the “associating” limitation of claim 75.

Turning now to Codignotto’s Fig. 12, Applicant submits that this embodiment also does not teach or suggest all of the limitations of claim 75. Fig. 12 plainly does not teach “receiving an audio signal” or “recording said received audio signal to create an audio file” as recited in that claim. Indeed, the Examiner provides no such citation from either Fig. 12 or the accompanying text for these limitations. With regard to the “associating” limitation, the Examiner, citing Figs. 6 (element 670) and 12 (elements 1235-1240), states that “email is an image file which the audio file is associated with.” *See* Office Action at 3. Applicant strongly disagrees with this statement. Codignotto itself clearly distinguishes between an “email message[]” on one hand, col. 17, line 40, and an “email attachment” that is an “image file” on the other, col. 17, lines 52-53. Applicant further submits that one of ordinary skill in the art would not consider an “email message” in Codignotto an “image file,” although an email message may of course include an image file as an attachment.

With this distinction between an “email message” and an “email attachment” that is an “image file” understood, it can be seen that the embodiment of Codignotto’s Fig. 12 plainly does not teach the “associating” step of claim 75. On the contrary, Fig. 12 teaches “extract[ing]” “one or more audio files” that “are found attached to the email,” (step 1235) and “extract[ing]” “one or more image files” that “are found” (step 1250). No “associating” is performed between “audio files” and “image files” in the context of Codignotto’s Fig. 12. If anything, these files are “disassociated” from the original email message. Given that Codignotto’s Fig. 12 does not teach or suggest the “associating” recited in claim 75, it follows that this embodiment does not teach or suggest that the “recorded audio file” and the “image file” are “associate[ed] ... in a manner that makes the recorded audio file available for playback to a first user when the first user subsequently selects the image file via input received over the network,” as is also recited in claim 75.

In short, the embodiments described at Figs. 6 and 12 of Codignotto do not teach each and every limitation of claim 75. Applicant respectfully submits that this reference does not support the conflation of these two distinct embodiments that is found in the argument on page 3 of the present Office Action. Simply put, nothing in Codignotto supports “associating the recorded audio file with an image file” in the manner recited in claim 75.

For at least these reasons, Applicant submits that claim 75 is in condition for allowance. The other independent claims are believed to be in condition for allowance for at least reasons similar to those stated in support of claim 75.

Numerous dependent claims are believed to present additional distinctions over the cited art, but given that the independent claims are believed to be in condition for allowance, the dependent claims are believed to be in condition for allowance as well. Thus, a further discussion of the dependent claims is not believed necessary at this time.

Accordingly, Applicant respectfully requests removal of the § 102 rejections.

CONCLUSION:

Applicants submit the application is in condition for allowance, and an early notice to that effect is requested.

The Commissioner is authorized to charge any fees that may be required, or credit any overpayment, to Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C. Deposit Account No. 501505/5957-02200/DMM.

Respectfully submitted,

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